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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10

11 MICHAEL STRADFORD, individually  
12 and on behalf of all others similarly  
13 situated,

14 Plaintiff,

15 v.

16 CHIPOTLE MEXICAN GRILL, INC.,  
17 BRIAN NICCOL, and JOHN R.  
18 HARTUNG,

19 Defendants.

Case No. 8:24-cv-02459-SPG-JDE

**ORDER GRANTING LISA TAI'S  
MOTION FOR APPOINTMENT AS  
LEAD PLAINTIFF AND APPROVAL  
OF SELECTION OF LEAD COUNSEL  
AND DENYING THE MOTIONS OF  
LOUIS PAPAS, SAMUEL CATT AND  
NUTAN DESAI, AND BURK STUART  
[ECF NOS. 14, 16, 20, 22]**

20 Before the Court are the Motions for the appointment of lead plaintiff and  
21 corresponding approval of the selection of lead counsel filed by Lisa Tai (ECF No. 22 ("Tai  
22 Motion")), Louis Papas (ECF No. 16 ("Papas Motion")), Samuel Catt and Nutan Desai  
23 (ECF No. 20 ("Catt/Desai Motion")), and Burk Stuart (ECF No. 14 ("Stuart Motion")).  
24 Because all other parties have either withdrawn, filed a notice of non-opposition, or failed  
25 to file a notice of opposition, the Tai Motion is unopposed. The Court has read and  
26 considered the matters raised with respect to the Motions and concluded that this matter is  
27 suitable for decision without oral argument. *See* Fed. R. Civ. P. 78(b); C.D. Cal. L.R. 7-  
28 15. Having considered the parties' submissions, the relevant law, and the record in this

1 case, the Court GRANTS the Tai Motion and DENIES the Papas, Catt/Desai, and Stuart  
2 Motions.

3 **I. BACKGROUND**

4 Defendant Chipotle Mexican Grill, Inc. (“Chipotle”) is the owner and operator of a  
5 restaurant chain that serves burritos, burrito bowls, quesadillas, tacos, and salads, among  
6 other food items. (ECF No. 1 (“Complaint”) ¶ 7). Beginning in the spring and summer of  
7 2024, Chipotle customers began to express grievances online about the company’s  
8 inconsistent or inadequate portion sizes. (*Id.* ¶ 23). These grievances were covered in  
9 news articles and prompted investigative reporting about Chipotle’s portion sizes. (*Id.*  
10 ¶ 24, 32).

11 The Complaint alleges that between February 8, 2024, and October 29, 2024, (the  
12 “Class Period”), Defendants made materially false and misleading statements or omissions  
13 relating to the portion sizes and the need to “ensure more generous portion sizes, which  
14 would increase cost of sales.” (*Id.* ¶ 37). Specifically, the Complaint alleges that  
15 Chipotle’s 2023 Annual Report “understated how difficult it would be to compete” given  
16 the customer complaints, and that Chipotle falsely denied that portion sizes had gotten  
17 smaller when “portions had in fact gotten smaller in many cases.” (*Id.* ¶¶ 18, 31).

18 In response to the customer complaints, Chipotle announced efforts to increase and  
19 standardize portion sizes. (*Id.* ¶ 38). On an earnings call on July 24, 2024, Chipotle’s  
20 CEO, Defendant Brian Niccol (“Niccol”), stated that partially as a result of these efforts,  
21 Chipotle expected its cost of sales to increase to “just below 31%” in the third quarter of  
22 2024. (*Id.* ¶ 39). In response to this disclosure, the stock price fell 1.85% and an additional  
23 1.9% the following day. (*Id.* ¶ 40). Then, on an earnings call on October 29, 2024,  
24 Chipotle’s interim CEO stated that cost of sales in the third quarter had been 30.6%. (*Id.*  
25 ¶ 41). On this news, the price of Chipotle stock fell by 7.86%. (*Id.* ¶ 44).

26 On November 11, 2024, Plaintiff Michael Stradford (“Stradford”) brought this  
27 action on behalf of himself and a putative class of individuals who, during the Class Period,  
28 (1) purchased Chipotle’s common stock, (2) purchased Chipotle call options, or (3) sold

1 Chipotle put options. (*Id.* ¶ 46). The Complaint alleges violations of Sections 10(b) and  
2 20(a) of the Securities and Exchange Act against Chipotle, Niccol, and Chipotle CFO John  
3 Hartung (collectively, “Defendants”). (*Id.* at 16-19). On the same day, Stradford published  
4 notice in *Business Wire*, advising members of the putative class of the pending class action  
5 and of the January 10, 2025, deadline to submit a motion to serve as lead plaintiff. *See*  
6 (ECF No. 25-1 (Exhibit A to Declaration of Lisa Tai (“Tai Ex. A”))).

7 On January 10, 2025, Tai, Papas, Catt and Desai, and Stuart each filed motions  
8 seeking appointment as lead plaintiff for the putative class and approval of their selection  
9 of lead counsel. (Tai Mot.; Papas Mot.; Catt/Desai Mot.; Stuart Mot.). On January 25,  
10 2025, Tai filed an opposition to the other putative class members’ competing motions,  
11 (ECF No. 37), while Catt and Desai filed a notice of non-opposition to the same, (ECF No.  
12 35), and Stuart filed a notice of withdrawal, (ECF No. 36). Papas did not file either an  
13 opposition or a notice of non-opposition.

## 14 II. LEGAL STANDARD

15 The Private Securities Litigation Reform Act (“PSLRA”) imposes early notice  
16 requirements on plaintiffs:

17 Not later than 20 days after the date on which the complaint is  
18 filed, the plaintiff or plaintiffs shall cause to be published, in a  
19 widely circulated national business-oriented publication or wire  
20 service, a notice advising members of the purported plaintiff  
class—

- 21 (I) of the pendency of the action, the claims asserted  
22 therein, and the purported class period; and  
23 (II) that, not later than 60 days after the date on which  
24 the notice is published, any member of the purported class  
25 may move the court to serve as lead plaintiff of the  
purported class.

26 15 U.S.C. § 78u-4(a)(3)(A)(i).

27 After the plaintiff satisfies the notice requirement, a court “shall appoint as lead  
28 plaintiff the member or members of the purported plaintiff class that the court determines

1 to be most capable of adequately representing the interests of class members.” *Id.* § 78u-  
2 4(a)(3)(B)(i). The PSLRA establishes a rebuttable presumption that “the most adequate  
3 plaintiff” is the person that:

- 4 (aa) has either filed the complaint or made a motion in response
- 5 to a notice under subparagraph (A)(i);
- 6 (bb) in the determination of the court, has the largest financial
- 7 interest in the relief sought by the class; and
- 8 (cc) otherwise satisfies the requirements of Rule 23 of the
- 9 Federal Rules of Civil Procedure.

9 *Id.* § 78u-4(a)(3)(B)(iii)(I). A competing putative class member may defeat this  
10 presumption with evidence “that the presumptively most adequate plaintiff” either  
11 “(aa) will not fairly and adequately protect the interests of the class; or (bb) is subject to  
12 unique defenses that render such plaintiff incapable of adequately representing the class.”  
13 *Id.* § 78u-4(a)(3)(B)(iii)(II).

### 14 **III. DISCUSSION**

#### 15 **A. Stradford satisfied the PSLRA’s Notice Requirement**

16 To comply with the PSLRA, a plaintiff must (1) publish notice within 20 days of  
17 filing their complaint in (2) “a widely circulated national business-oriented publication or  
18 wire service,” advising the putative class of (3) “the pendency of the action, the claims  
19 asserted therein, and the purported class period,” as well as that (4), “not later than 60 days  
20 after the notice’s publication, any member of the putative class may move to serve as lead  
21 plaintiff. *Id.* § 78u-4(a)(3)(A)(i).

22 Here, Stradford published notice of this lawsuit on November 11, 2024, the same  
23 day he filed suit. *Compare* (Tai Ex. A) *with* (Compl.). Stradford published notice in  
24 *Business Wire*, (Tai Ex. A), a national, widely circulated, business-oriented wire service.  
25 *See Ferreira v. Funko, Inc.*, No. 2:20-cv-02319-VAP-PJWx, 2020 WL 3246328, at \*4  
26 (C.D. Cal. June 11, 2020) (approving publication in *Business Wire* as sufficient to meet  
27 PSLRA publication requirement). The notice stated that “Rosen Law Firm . . . has filed a  
28 class action lawsuit on behalf of purchasers of Chipotle Mexican Grill, Inc. (NYSE: CMG)

1 common stock between February 8, 2024 and October 29, 2024 . . . and those who  
2 purchased Chipotle call options or sold put options during the Class Period.” (Tai Ex. A  
3 at 2). The notice also described the claims at issue and notified investors that if they wished  
4 to serve as lead plaintiff they “must move the Court no later than January 10, 2025.” (*Id.*).  
5 Accordingly, Stradford’s notice satisfies the requirements of the PSLRA.

6 **B. Selection of Lead Plaintiff**

7 Although four aspiring lead plaintiffs initially filed Motions in response to  
8 Stradford’s notice, Catt and Desai subsequently filed a Notice of Non-Opposition  
9 indicating that they “do not have the ‘largest financial interest’ in this litigation.” (ECF  
10 No. 35 at 2). Stuart filed a notice of withdrawal, indicating that “Lisa Tai . . . has the largest  
11 financial interest in the relief sought by the class as required by the PSLRA, and is  
12 otherwise adequate to represent the class.” (ECF No. 36 at 2). While Tai filed a notice of  
13 opposition to the other Motions, (Tai Opp.), Papas filed no notice of either opposition or  
14 non-opposition. Accordingly, it appears that the Tai Motion is unopposed. Nevertheless,  
15 the Court will conduct an independent examination of the factors to ensure that Tai is the  
16 most adequate lead plaintiff.

17 Under the PSLRA, the presumptively most adequate plaintiff (1) “either filed the  
18 complaint or made a motion in response to a notice under subparagraph (A)(i)”; (2) “has  
19 the largest financial interest in the relief sought by the class”; and (3) “otherwise satisfies  
20 the requirements of Rule 23 of the Federal Rules of Civil Procedure.” 15 U.S.C.  
21 § 78u-4(a)(3)(B)(iii)(I). Tai timely filed the Motion on January 10, 2025, in response to  
22 notice properly issued by Stradford under 15 U.S.C. § 78u-4(a)(3)(A)(i). Accordingly, Tai  
23 has satisfied the first requirement.

24 Next, the Court must compare each party’s “financial interest in the litigation,” using  
25 accounting methods that are both “rational and consistently applied.” *In re Cavanaugh*,  
26 306 F.3d 726, 730 n.4 (9th Cir. 2002). In making this determination, courts within the  
27 Ninth Circuit generally refer to one of four metrics: “1) number of shares purchased during  
28 the class period; 2) net shares purchased during the class period; 3) net funds expended

1 during the class period; and 4) approximate losses from the alleged fraud.” *In re McKesson*  
2 *HBOC, Inc. Sec. Litig.*, 97 F. Supp. 2d 993, 995 (N.D. Cal. 1999). *See also Ferreira*, 2020  
3 WL 3246328, at \*5 (same). Here, by any metric, Tai has the largest financial stake. During  
4 the Class Period, Tai purchased 181,751 shares of Chipotle common stock, sold over  
5 100,000 shares, made various other transactions in Chipotle options, and allegedly suffered  
6 approximately \$360,400 in losses. (Tai Opp. at 2; ECF No. 24 (“Tai Memo”) at 4; ECF  
7 No. 25-2; ECF No. 25-3). By comparison, Papas purchased 3,950 shares and allegedly  
8 suffered losses of \$19,213, (ECF No. 17 at 6; ECF No. 16-4), Catt and Desai purchased  
9 13,100 shares and allegedly suffered losses of \$14,829, (ECF No. 23 at 9; ECF No. 27-1),  
10 and Stuart purchased 2,300 shares and allegedly suffered losses of \$7,745.07, (ECF No.  
11 14-2 at 6; ECF No. 14-6). Thus, a comparison of “the financial stakes of the various  
12 plaintiffs” reveals that Tai has “the most to gain from the lawsuit.” *Cavanaugh*, 306 F.3d  
13 at 730.

14 Finally, once a court “determines which plaintiff has the biggest stake, the court must  
15 appoint that plaintiff as lead, unless it finds that he does not satisfy the typicality or  
16 adequacy requirements.” *Id.* at 732. The court makes its initial Rule 23 determination as  
17 to that plaintiff, based on the information provided by the plaintiff in his pleadings. *Id.* at  
18 730. “The test of typicality is whether other members have the same or similar injury,  
19 whether the action is based on conduct which is not unique to the named plaintiffs, and  
20 whether other class members have been injured by the same course of conduct.” *Hanon v.*  
21 *Dataproducts Corp.*, 976 F.2d 497, 508 (9th Cir. 1992) (internal quotation marks and  
22 citation omitted). To determine whether a plaintiff meets Rule 23’s adequacy requirement,  
23 courts “ask two questions: (1) [d]o the representative plaintiffs and their counsel have any  
24 conflicts of interest with other class members, and (2) will the representative plaintiffs and  
25 their counsel prosecute the action vigorously on behalf of the class?” *Staton v. Boeing Co.*,  
26 327 F.3d 938, 957 (9th Cir. 2003).

27 Here, Tai alleges that, “[l]ike all other class members, she: (1) purchased Chipotle  
28 common stock during the Class Period; (2) was adversely affected by defendants’ wrongful



1 conduct; and (3) suffered damages thereby.” (Tai Memo at 5). As for adequacy, in her  
2 sworn certification and declaration, Tai asserts that she understands the duties of lead  
3 plaintiff and is willing to perform these duties on behalf of all the class members. (*Id.*;  
4 ECF No. 25-2 at 2; ECF No. 25-4 at 2). Tai also suggests that her appointment of  
5 “experienced and qualified counsel” supports her claim of adequacy. (Tai Memo at 5).  
6 Based on these allegations, the Court preliminarily concludes that Tai meets Rule 23’s  
7 typicality and adequacy requirements. Thus, Tai is presumptively the most adequate lead  
8 plaintiff.

9 After a presumptively most adequate lead plaintiff is identified, other plaintiffs have  
10 “an opportunity to rebut the presumptive lead plaintiff’s showing that it satisfies Rule 23’s  
11 typicality and adequacy requirements.” *Cavanaugh*, 306 F.3d at 730. Here, however, none  
12 of the other applicants for lead plaintiff are contesting Tai’s appointment as lead plaintiff.  
13 “[O]nce the presumption is triggered, the question is not whether another movant might do  
14 a better job of protecting the interests of the class than the presumptive lead plaintiff;  
15 instead, the question is whether anyone can prove that the presumptive lead plaintiff will  
16 not do a fair and adequate job.” *Tanne v. Autobytel, Inc.*, 226 F.R.D. 659, 669 (C.D. Cal.  
17 2005) (quoting *In re Cendant Corp. Litigation*, 264 F.3d 201, 268 (3d Cir. 2001)). As no  
18 party has done so, and Tai has satisfied her burden to show preliminary typicality and  
19 adequacy under Rule 23, the Court GRANTS her Motion to be appointed lead plaintiff.

### 20 C. Selection of Class Counsel

21 The PSLRA provides that “[t]he most adequate plaintiff shall, subject to the approval  
22 of the court, select and retain counsel to represent the class.” 15 U.S.C.  
23 § 78u-4(a)(3)(B)(iii)(v). The Ninth Circuit recognizes “a strong presumption in favor of  
24 approving a properly-selected lead plaintiff’s decisions as to counsel selection and counsel  
25 retention.” *Cavanaugh*, 306 F.3d at 734 n.14 (citation omitted). Indeed, “[a] court may  
26 disturb the lead plaintiff’s choice of counsel only if it appears necessary to ‘protect the  
27 interests of the class.’” *Tanne*, 226 F.R.D. at 673 (quoting 15 U.S.C. § 78u-  
28 4(a)(3)(B)(iii)(II)(aa)).


1 Tai requests the Court approve her selection of the law firm Robbins Geller Rudman  
2 & Dowd (“Robbins Geller”) as lead counsel. (Tai Memo at 2). As one court has noted,  
3 Robbins Geller “specializes in securities fraud actions” and has handled some “of the  
4 largest and highest-profile securities cases,” and it is therefore “undisputable that class  
5 counsel in this case has extensive experience prosecuting suits of this nature.” *In re Cooper*  
6 *Cos. Inc. Sec. Litig.*, 254 F.R.D. 628, 636 (C.D. Cal. 2009). Given the firm’s reputation  
7 and the absence of any opposition, the Court GRANTS Tai’s motion to approve her  
8 selection of Robbins Geller as lead counsel for the putative class.

9 **IV. CONCLUSION**

10 For the foregoing reasons, the Court GRANTS the Tai Motion and DENIES the  
11 Papas, Stuart, and Catt/Desai Motions. Tai is hereby appointed lead plaintiff, and Robbins  
12 Geller is hereby appointed lead counsel.

13 **IT IS SO ORDERED.**

14  
15 DATED: February 21, 2025

  
H. N. HERILYN PE E ARNETT  
UNITED STATES DISTRICT JUDGE